



September 8, 2000

Regional Director
Lower Colorado Region
Attention: Jayne Harkins (LC-4600)
Bureau of Reclamation
PO Box 61470
Boulder City, Nevada 89006-1470

Via fax: (702) 293-8042

Re: Colorado River Interim Surplus Criteria DEIS

Dear Ms. Harkins:

The Pacific Institute for Studies in Development, Environment, and Security respectfully submits the following comments on the Colorado River Interim Surplus Criteria draft Environmental Impact Statement (DEIS). These comments will also be sent to you via regular and electronic mail. The Pacific Institute is an independent, non-partisan, non-profit center in Oakland, California, created in 1987 to conduct research and policy analysis in the areas of environment, sustainable development, and international security. The Institute has actively participated in the development of the Interim Surplus Criteria for more than a year, via formal scoping comments and through informal discussions and workshops. The Pacific Institute also submitted a set of "Environmental Interim Surplus Criteria" for consideration in the DEIS.

The Pacific Institute welcomes the effort to develop interim surplus criteria. We believe that facilitating the implementation of plans and projects to reduce California's use of Colorado River water to its legal apportionment is a worthy objective, and that interim criteria are a reasonable means of achieving this objective. The Institute does not believe, however, that meeting this objective should come at the cost of further harm to the environment.

In the attached comments, the Pacific Institute identifies several major flaws in the DEIS. These include: the failure to analyze the impacts of the 7 State Guidelines (likely to be the preferred alternative); the scope of the document; several of the modeling assumptions; the selection of the 75R trigger as a baseline instead of the flood control trigger; the absence of an adequate cumulative impacts assessment; and a general disregard for the Secretary's responsibility to "protect and enhance the environmental resources of the basin."

The general effect of these deficiencies is to understate the potential environmental impacts of interim surplus criteria. The Pacific Institute concludes that the DEIS is inadequate and should be formally revised and reissued for public comment as a Supplemental Draft Environmental Impact Statement. The deficiencies highlighted in the attached comments are of sufficient magnitude that they preclude a reasonable assessment of the potential environmental impacts associated with the adoption of interim surplus criteria.

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More broadly, the Pacific Institute believes that the potential benefits generated by interim surplus criteria do not warrant their environmental costs. These costs could be substantial. By the year 2015, the flood control alternative would generate a 17% greater probability of flows reaching the delta than would the six states' plan, itself likely to generate more flows than the 7 state plan. Because the frequency and magnitude of such flows are closely tied to the reproduction and health of the native riparian vegetation in the region, and indirectly to the myriad of threatened and endangered species that depend on this habitat, this projected reduction in flows is significant. The projected benefits of the interim surplus criteria are less clear. Interior is promoting the surplus criteria as necessary to reduce California's consumption of Colorado River water. Yet California's plan to reduce its use, even under the most optimistic of projections, would not meet the target conservation objective. And California continues to demand additional water, above and beyond that outlined within the 7 State Plan. At the August 16th AOP meeting, California requested a full surplus declaration for calendar year 2001, including 150,000 acre-feet for agricultural demands, justifying this request as a "transition" into the interim period. The absence of a real "4.4 Plan," combined with California's continued failure to reduce its use, suggest that California will not markedly reduce its use in the next fifteen years. In light of these substantial costs and tentative benefits, there is little incentive to condone increased threats to environmental values along the lower Colorado River.

The Secretary of the Interior has stated that surplus flows must be determined and allocated with *no net loss* of environmental benefits. According to the DEIS, the proxy for the 7 State Plan would likely generate a net loss of such benefits. Reclamation should identify a reasonable mechanism for mitigating the loss of such benefits, whether through the releases suggested by the Environmental Criteria or via another mechanism for protecting environmental benefits.

Overall, the Pacific Institute recommends that Reclamation issue a supplemental DEIS that:

1. defines and assesses the potential environmental impacts of the 7 State Guidelines
2. expands the scope to encompass the limitrophe, the delta in Mexico, and the Upper Gulf
3. revises the modeling assumptions as described in the attached comments
4. uses the flood control alternative as the baseline
5. adequately accounts for cumulative impacts
6. assesses the Environmental Interim Surplus Criteria

Thank you for the opportunity to participate in this important process. Please do not hesitate to contact me if you wish to discuss any of the points made in the attached comments.

Sincerely,



Michael Cohen
Research Associate

enclosure

Pacific Institute Comments
on the
Colorado River
Interim Surplus Criteria
Draft Environmental Impact Statement

A report of the

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OVERVIEW

California currently uses about 18% more Colorado River water than its normal entitlement. Until recently, this excess came from the unused apportionments of Arizona and Nevada, the other two states in the lower Colorado River basin. As Arizona and Nevada continue to increase their own use, the federal government and the other basin states have pressured California to reduce its use down to its legal entitlement. In response, California drafted a plan to reduce its use, but claims that over the next 15 years it will require a reliable supply of additional “surplus” water from the Colorado River to implement this plan. The Department of the Interior and the other basin states have decided that the benefit of implementing California’s plan outweighs the risks of increased shortage and other costs associated with drawing down the elevation of Lake Powell and Lake Mead, and so agreed to create temporary rules, known as interim surplus criteria, to allow California to use additional water. Interior claims that this long-term benefit outweighs the potential short-term costs to the environment, such as reduced flows to the Colorado River delta.

The Bureau of Reclamation published a Notice of Intent to develop surplus criteria for Colorado River management on May 18, 1999 (64 Fed Reg 27008). On July 7, 2000, the U.S. Bureau of Reclamation issued a Draft Environmental Impact Statement (DEIS) to analyze the potential environmental impacts of adopting specific interim criteria (65 Fed Reg 42028). On August 8, 2000, Reclamation published a new set of rules, known as the 7 States’ proposed interim surplus guidelines (65 Fed Reg 48531).

The adoption of surplus criteria will impact several related Colorado River issues, including the frequency and magnitude of “space-building” and reservoir spill (flood) flows, the availability of water for the delta region, habitat availability and quality for federally listed species, off-stream storage, the lower Colorado River MSCP, the availability of surplus flows for Mexico, recreational uses along Lake Powell and Lake Mead, water quality issues, power generation, the probability of shortage conditions on the river, and others. The Pacific Institute’s comments focus on the scope of the DEIS, potential impacts to habitat along the Colorado River downstream of Lake Mohave, modeling assumptions, and several procedural issues.

The Pacific Institute identifies several significant deficiencies in the DEIS:

1. **The DEIS does not include the 7 State Plan** The DEIS fails to analyze the potential impacts of the 7 State Plan, which is likely to be the preferred alternative. Comments by various basin state representatives at the August 16th Annual Operating Plan (AOP) meeting in Las Vegas indicated that the basin states already assume that the 7 State Plan will be adopted. Yet the DEIS uses a different plan as a proxy for the 7 State Plan, justifying its decision because a “preliminary review” of this plan suggests that it lies “within the range of alternatives and impacts analyzed in the DEIS.” A preliminary review by the Pacific Institute indicates that the new, unanalyzed plan would increase Colorado River depletions, exacerbating the potential impacts relative to the proxy plan and to the baseline. The Pacific Institute recommends that these impacts be modeled and analyzed.
2. **Scope** The scope of the DEIS is inadequate. The DEIS does not analyze the full range of potential impacts within the U.S., arbitrarily excluding the limitrophe division of the Colorado River. Additionally, the discussion of transboundary environmental impacts are cursory and

1: Reclamation agrees and has modeled and analyzed the Basin State Alternative for this FEIS. It should be noted that this alternative has been selected as the preferred alternative.

2: The area of potential effect has been expanded to include consideration of the Colorado River 100-year floodplain to the SIB. The Transboundary analysis has been modified in the FEIS and Reclamation believes this section appropriately assesses potential effects in Mexico.